

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1033

(Reference to printed bill)

1   Page 1, between lines 1 and 2, insert:

2                 "Section 1. Section 28-1387, Arizona Revised Statutes, is amended to  
3                 read:

4                 28-1387. Prior convictions; alcohol or other drug screening,  
5                         education and treatment; license suspension;  
6                         supervised probation; civil liability; procedures

7                 A. The court shall allow the allegation of a prior conviction or any  
8                 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or  
9                 an act in another jurisdiction that if committed in this state would be a  
10                 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days  
11                 before the date the case is actually tried and may allow the allegation of a  
12                 prior conviction or any other pending charge of a violation of section  
13                 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if  
14                 committed in this state would be a violation of section 28-1381, 28-1382 or  
15                 28-1383 filed at any time before the date the case is actually tried if this  
16                 state makes available to the defendant when the allegation is filed a copy of  
17                 any information obtained concerning the prior conviction or other pending  
18                 charge. Any conviction may be used to enhance another conviction  
19                 irrespective of the dates on which the offenses occurred within the  
20                 eighty-four month provision. For the purposes of this article, an order of a  
21                 juvenile court adjudicating a person delinquent is equivalent to a  
22                 conviction.

23                 B. In addition to any other penalties prescribed by law, the judge  
24                 shall order a person who is convicted of a violation of section 28-1381 or  
25                 28-1382 to complete alcohol or other drug screening that is provided by a  
26                 facility approved by the department of health services or a probation  
27                 department. If a judge determines that the person requires further alcohol  
28                 or other drug education or treatment, the person may be required pursuant to  
29                 court order to obtain alcohol or other drug education or treatment under the

1       court's supervision from an approved facility. The judge may review an  
2       education or treatment determination at the request of the state, the  
3       defendant or the probation officer or on the judge's initiative. The person  
4       shall pay the costs of the screening, education or treatment unless, after  
5       considering the person's ability to pay all or part of the costs, the court  
6       waives all or part of the costs. If a person is referred to a screening,  
7       education or treatment facility, the facility shall report to the court  
8       whether the person has successfully completed the screening, education or  
9       treatment program.

10       C. After a person who is sentenced pursuant to section 28-1381,  
11       subsection I has served twenty-four consecutive hours in jail or after a  
12       person who is sentenced pursuant to section 28-1381, subsection K or section  
13       28-1382, subsection D or F has served forty-eight consecutive hours in jail  
14       and after the court receives confirmation that the person is employed or is a  
15       student, the court may provide in the sentence that the defendant, if the  
16       defendant is employed or is a student and can continue the defendant's  
17       employment or schooling, may continue the employment or schooling for not  
18       more than twelve hours a day nor more than five days a week. The person  
19       shall spend the remaining day, days or parts of days in jail until the  
20       sentence is served and shall be allowed out of jail only long enough to  
21       complete the actual hours of employment or schooling.

22       D. Unless the license of a person convicted under section 28-1381 or  
23       28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the  
24       department on receipt of the abstract of conviction of a violation of section  
25       28-1381 or 28-1382 shall suspend the license of the affected person for not  
26       less than ninety consecutive days.

27       E. When the department receives notification that the person meets the  
28       criteria provided in section 28-1385, subsection F, the department shall  
29       suspend the driving privileges of the person for not less than thirty  
30       consecutive days and shall restrict the driving privileges of the person for  
31       not less than sixty consecutive additional days to travel between any of the  
32       following:

1           1. The person's place of employment and residence and during specified  
2           periods of time while at employment.

3           2. The person's place of residence and the person's secondary or  
4           postsecondary school, according to the person's employment or educational  
5           schedule.

6           3. The person's place of residence and a screening, education or  
7           treatment facility for scheduled appointments.

8           4. The person's place of residence and the office of the person's  
9           probation officer for scheduled appointments.

10          F. If a person is placed on probation for violating section 28-1381 or  
11          28-1382, the probation shall be supervised unless the court finds that  
12          supervised probation is not necessary or the court does not have supervisory  
13          probation services.

14          G. Any political subdivision processing or using the services of a  
15          person ordered to perform community restitution pursuant to section 28-1381  
16          or 28-1382 does not incur any civil liability to the person ordered to  
17          perform community restitution as a result of these activities unless the  
18          political subdivision or its agent or employee acts with gross negligence.

19          H. IF A PERSON FAILS TO COMPLETE THE COMMUNITY RESTITUTION ORDERED  
20          PURSUANT TO SECTION 28-1381, SUBSECTION K OR 28-1382, SUBSECTION F, THE COURT  
21          MAY ORDER ALTERNATIVE SANCTIONS IF IT DEEMS IT MORE APPROPRIATE. UNLESS THE  
22          ALTERNATIVE SANCTIONS ARE ORDERED, THE PERSON SHALL NOT BE ISSUED A NEW  
23          DRIVER LICENSE PURSUANT TO SECTION 28-3319, SUBSECTION D.

24          H. I. Except for another violation of this article, the state shall  
25          not dismiss a charge of violating any provision of this article unless there  
26          is an insufficient legal or factual basis to pursue that charge.

27          Sec. 2. Section 28-1442, Arizona Revised Statutes, is amended to read:

28          28-1442. Driving under the influence: records; reporting

29          A. The administrative office of the courts shall report to the  
30          governor's office of highway safety by September 1 of each year for the  
31          previous fiscal year:

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1           1. The number of complaints issued charging a violation that include  
2 both sections 28-1381 and 28-1382.

3           2. The number of complaints issued charging a violation that include  
4 either section 28-1381 or 28-1382.

5           B. By September 1 of each year the motor vehicle division shall report  
6 to the governor's office of highway safety the number of ignition interlock  
7 devices ordered to be installed pursuant to sections 28-1381, 28-1382 and  
8 28-1383 for the previous fiscal year.

9           C. By September 1 of each year each county attorney and municipal  
10 prosecutor shall report to the governor's office of highway safety the number  
11 of cases dismissed pursuant to section 28-1387, subsection ~~H~~ I for the  
12 previous fiscal year.

13           D. By October 1 of each year the governor's office of highway safety  
14 shall report the information collected for the previous fiscal year pursuant  
15 to subsections A, B and C of this section to the president of the senate and  
16 the speaker of the house of representatives."

17       Renumber to conform

18       Page 1, line 38, after "RESTITUTION" insert "[OR THE ALTERNATIVE SANCTIONS ORDERED](#)  
19           [BY THE COURT](#)"

20       Amend title to conform

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2/27/08  
4:44 PM  
S: RD/jas